

WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

VOTES AND PROCEEDINGS

No. 115

FIRST SESSION OF THE THIRTY-SEVENTH PARLIAMENT

TUESDAY, 31 OCTOBER 2006

1. Meeting of Assembly

The Assembly met at 2.00 p.m. pursuant to adjournment.

The Speaker took the Chair.

Prayers were read.

2. Community Development and Justice Standing Committee

The Speaker advised that Mr M.J. Cowper had today resigned from the Community Development and Justice Standing Committee.

3. Brief Ministerial Statements

The following Brief Ministerial Statements were made by -

The Minister for Community Development on the Government's acceptance of the recommendations of the Safety of Children Review.

Paper

The following paper was presented and ordered to lie upon the Table of the House -

By the Minister for Community Development -

Safety of Children and Young People - Ensuring concerns about children and young people's safety are heard, February to September 2006 (2161).

Distinguished Visitor

The Speaker noted the presence in the Speaker's Gallery of Mrs Susan Nakawuki MP, a member of the Ugandan Parliament and her husband, Mr Nicholas Matovu Lubega.

The Premier on the retirement of Ms Jane Brazier, Director General of the Department for Community Development.

The Minister for the Environment on the final recommendations of the report of the Core Consultative Committee on Waste (3C) on sites for dedicated hazardous waste precincts.

Paper

The following paper was presented and ordered to lie upon the Table of the House -

By the Minister for the Environment -

Core Consultative Committee on Waste - Advice to Cabinet on the Siting of Hazardous/Industrial Waste Treatment Precincts and the Legislative and Regulatory Model to be Applied to Hazardous/Industrial Waste Treatment Precincts (2162).

The Minister for Health on the waiting times for radiotherapy for cancer patients at Sir Charles Gairdner Hospital.

The Minister for Employment Protection on the progress of the Western Australian Workers' Compensation scheme over the last 12 months.

The Minister for the Environment on bushfires on conservation lands and Crown lands.

The Minister for Small Business on the Business and Skilled Migration visit he undertook to Ireland and the United Kingdom in October 2006.

The Minister for Employment Protection on the winners of the 2006 Work Safety Awards Western Australia.

4. Questions

Questions without notice were taken.

Questions on notice Nos 1607 to 1615 were asked.

Questions on notice Nos 1497, 1546, 1569, 1590 and 1597 were answered.

5. Additional Information under Standing Order No. 82A

In accordance with Standing Order No. 82A, the Minister for Planning and Infrastructure provided additional information relating to a question without notice from Mr D.T. Redman.

6. Petitions

Royal Perth Hospital - Dr K.D. Hames presented a petition from 3,133 persons requesting that their opposition to the closure of Royal Perth Hospital be noted and the name of Royal Perth Hospital be maintained (P. 156).

Frank Gibson Park - Mr J.A. McGinty presented a petition from 2,977 persons requesting that The Frank Gibson Park remain zoned as a Reserve for Recreational Purposes, and that any new resident development on the existing Reserve be opposed (P. 157).

7. Papers

The following paper was presented and ordered to lie upon the Table of the House –

By the Speaker –

Inspector of Custodial Services, Office of the - Report of an Announced Inspection of Banksia Hill Juvenile Detention Centre, Report No. 37, September 2006 (Received by the Speaker of the Legislative Assembly on 28 September 2006 and held for a period of thirty days in accordance with section 34(1)(a) of the *Inspector of Custodial Services Act 2003*) (2156).

By the Clerk –

Aboriginal Customary Laws - The interaction of Western Australian Law with Aboriginal Law and Culture, Law Reform Commission of Western Australia, Project No. 94, Final Report, September 2006 (2157).

Industrial Training Act 1975 - Regulations (Industrial Training (Apprenticeship Training) Amendment Regulations (No. 6) 2006 G.G. 27/10/2006) (2158).

Local Government Act 1995 - Local Laws (City of Belmont Standing Orders Local Law 2006 G.G. 25/10/2006) (2159).

Spent Convictions Act 1988 - Regulations (Spent Convictions (Act Amendment) Regulations 2006 G.G. 24/10/2006) (2160).

8. Notices of Motion

9. Messages from the Governor

Messages from His Excellency the Governor were reported assenting to the following bills -
No. 47 - 26 October 2006

Volunteers (Protection from Liability) Amendment Bill 2006, Act No. 53 of 2006.

No. 48 - 26 October 2006

Road Traffic Amendment Bill 2006, Act No. 54 of 2006.

Electoral Reform (Electoral Funding) Bill 2006, Act No. 55 of 2006.

10. Messages from the Governor

Messages from His Excellency the Governor were reported recommending the purpose of the appropriations for the following bills -

Racing and Wagering Western Australia Tax Amendment Bill 2006 (Message No. 49).

Road Traffic Amendment (Drugs) Bill 2006 (Message No. 50).

Daylight Saving Bill (No. 2) 2006 (Message No. 51).

11. Parliamentary Legislation Amendment Bill 2006

Message No. 119 dated 25 October 2006 from the Legislative Council was reported as follows -

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Parliamentary Legislation Amendment Bill 2006* subject to the amendments contained in the Schedule annexed; in which amendments the Legislative Council desires the concurrence of the Legislative Assembly.

Schedule indicating the amendments made by the Legislative Council in the Parliamentary Legislation Amendment Bill 2006

No. 1

Clause 4, page 3, after line 8 — To insert —

“

(1) Section 44A(4) is amended by deleting “If the Premier so approves,”

”.

No. 2

Clause 7, page 4, line 25 to page 5, line 9 — To delete the lines.

No. 3

Long Title, page 1 — To delete “, and for related purposes”.

Ordered, That consideration in detail of Legislative Council message No. 119 be made an Order of the Day for the next sitting of the Assembly.

12. Electricity Industry (Western Australian Renewable Energy Targets) Amendment Bill 2005

Message No. 120 dated 26 October 2006 from the Legislative Council was reported forwarding for concurrence a bill entitled a bill for “An Act to amend the Electricity Industry Act 2004 to impose as a condition of holding a retail licence to sell electricity in the South West interconnected system an obligation to acquire target levels of electricity generated from renewable energy sources.”

Dr E. Constable moved, That the bill be read a first time.

Question put and passed.

Dr E. Constable presented an explanatory memorandum and bill read a first time.

Ordered, That the second reading of the bill be made an Order of the Day for the next sitting of the Assembly.

13. Criminal Investigation Bill 2005

Message No. 121 dated 26 October 2006 from the Legislative Council was reported as follows -

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Criminal Investigation Bill 2005* subject to the amendments contained in the Schedule annexed; in which amendments the Legislative Council desires the concurrence of the Legislative Assembly.

Schedule indicating the amendments made by the Legislative Council in the Criminal Investigation Bill 2005

No. 1

Clause 8, page 8, line 3 — To delete “a police” and insert instead —

“ an ”.

No. 2

Clause 9, page 8, line 10 — To insert after “purpose” —

“ and the functions of which are or include investigating or prosecuting offences ”.

No. 3

Clause 9, page 8, lines 21 and 22 — To delete “by virtue of regulations made” and insert instead —

“ because it is prescribed ”.

No. 4

Clause 13, page 11, lines 20 to 22 — To delete the clause.

No. 5

Clause 24, page 18, line 3 — To delete “It is lawful for any person (the “**citizen**”) to” and insert instead —

“ Any person (the “**citizen**”) may ”.

No. 6

Clause 25, page 19, line 24 — To delete “take over the arrest and detention of” and insert instead —
“ arrest ”.

No. 7

Clause 25, page 19, lines 27 and 28 — To delete “take over the arrest and detention of” and insert instead —
“ arrest ”.

No. 8

Clause 26, page 21, after line 11 — To insert —

“

- (6) Without limiting section 15, the person in charge of a vehicle may authorise another person to exercise any of the powers that the person in charge has under this section.

”.

No. 9

Clause 27, page 23, line 1 — To insert after “a” —
“ reasonable ”.

No. 10

Clause 27, page 23, after line 3 — To insert —

“

- (3) When giving a person an order under subsection (1), a police officer must take into account the likely effect of the order on the person, including but not limited to the effect on the person’s access to the places where he or she usually resides, shops and works, and to transport, health, education or other essential services.

”.

No. 11

Clause 27, page 23, after line 14 — To insert —

“

- (6) A person is not in breach of the move on order if the person is taking reasonable steps to comply with the order and move out of the area.

”.

No. 12

Clause 31, page 26, line 12 — To delete “may” and insert instead —
“ must ”.

No. 13

Clause 44, page 37, line 17 — To insert after “place” —
“ for no longer than is reasonably necessary ”.

No. 14

Clause 44, page 38, after line 6 — To insert —

“

- (7) A person who is detained under subsection (2)(g)(iii) when he or she is not under arrest is to be taken to be in lawful custody.

”.

No. 15

Clause 45, page 38, after line 9 — To insert —

“

- (2) If reasonably practicable, an audiovisual recording must be made of the execution of a search warrant.

”.

No. 16

Clause 48, page 43, line 1 — To insert after “not” —

“ give informed ”.

No. 17

Clause 65, page 53, after line 26 — To insert —

“

- (5) A person who is detained under subsection (2)(a) when he or she is not under arrest is to be taken to be in lawful custody.

”.

No. 18

Clause 68, page 54, line 5 — To delete “a police” and insert instead —

“ an ”.

No. 19

Clause 68, page 54, lines 8 to 11 — To delete the lines.

No. 20

Clause 68, page 54, line 12 — To delete “police”.

No. 21

Clause 68, page 54, lines 14 and 15 — To delete “described in paragraph (a), (b) or (c)” and insert instead —

“ relevant to an offence ”.

No. 22

Clause 82, page 69, lines 17 to 19 — To delete the lines.

No. 23

Clause 88, page 74, line 28 to page 75, line 3 — To delete the lines and insert instead —

“

the officer, without a warrant, may arrest the involved person and, having arrested the person —

- (c) may detain the person for a reasonable time to allow for the application to be made and decided; and
- (d) while the person is so detained, may take reasonable measures to prevent the thing or evidence of it from being disturbed or lost.

”.

No. 24

Clause 88, page 75, after line 3 — To insert —

“

- (4) When arresting and detaining a protected person under subsection (3), an officer must consider the best interests of the person.

”.

No. 25

Clause 96, page 84, line 5 — To delete “a police” and insert instead —

“ an ”.

No. 26

Clause 96, page 84, lines 11 to 17 — To delete the lines and insert instead —

“

the officer, without a warrant, may arrest the suspect and, having arrested the suspect —

- (c) may detain the suspect for a reasonable time to allow for the application to be made and decided; and
- (d) while the suspect is so detained, may take reasonable measures to prevent the thing or evidence of it from being disturbed or lost.

”.

No. 27

Clause 98, page 86, line 20 — To delete “a police” and insert instead —

“ an ”.

No. 28

Clause 103, page 93, before line 1 — To insert before “Dentist” in the second column of Item 8 of the Table —

“ Doctor, ”.

No. 29

Clause 105, page 95, line 13 — To delete “a police” and insert instead —

“ an ”.

No. 30

Clause 112, page 98, after line 21 — To insert —

“

- (4) Subject to section 151, any forensic information obtained under Part 8 or 9 in relation to the investigation of the death of a person, or under Part 9 from a deceased person, must not be destroyed except with the approval of the Coroner.
Penalty: a fine of \$12 000 or imprisonment for 12 months.

”.

No. 31

Clause 121, page 105, lines 17 and 18 — To delete “or, if the accused person is or was committed to the District Court, the District Court,” and insert instead —

“ District Court, Magistrates Court or Children’s Court ”.

No. 32

Clause 127, page 108, line 10 — To delete the line.

No. 33

Clause 131, page 110, line 13 — To delete “police”.

No. 34

Clause 140, page 122, line 19 — To delete “police”.

No. 35

Clause 140, page 123, line 1 — To delete “a police” and insert instead —

“ an ”.

No. 36

New Clause 10, page 8, after line 29 — To insert the following new clause —

“

10. Informing people who do not understand English

If under this Act an officer is required to inform a person about any matter and the person is for any reason unable to understand or communicate in spoken English sufficiently, the officer must, if it is practicable to do so in the circumstances, use an interpreter or other qualified person or other means to inform the person about the matter.

”.

No. 37

New Clause 113, page 98, after line 21 — To insert the following new clause —

“

113. Publication of photographs restricted

- (1) In this section —
“**publish**” a photograph, includes to supply it to another person.
- (2) A person must not publish a photograph taken under Part 8 or 9 of a person or of any part of a person.
Penalty: a fine of \$12 000 or imprisonment for 12 months.

- (3) It is a defence to a charge of an offence under subsection (2) to prove —
- (a) the accused person published the photograph for a purpose reasonably connected with investigating or prosecuting an offence; and
 - (b) the accused person —
 - (i) published the photograph in a way that made identification of the photographed person unlikely; and
 - (ii) did not also publish the identity of the person photographed.

”.

No. 38

Long Title, page 1 — To insert after “**investigation**” —

“ **and prevention** ”

Ordered, That consideration in detail of Legislative Council message No. 121 be made an Order of the Day for the next sitting of the Assembly.

14. Criminal Investigation (Consequential Provisions) Bill 2005

Message No. 122 dated 26 October 2006 from the Legislative Council was reported as follows -

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Criminal Investigation (Consequential Provisions) Bill 2005* subject to the amendments contained in the Schedule annexed; in which amendments the Legislative Council desires the concurrence of the Legislative Assembly.

Schedule indicating the amendments made by the Legislative Council in the Criminal Investigation (Consequential Provisions) Bill 2005

No. 1

Clause 4, page 3, after line 16 — To insert —

“ or who arrests a person under a warrant. ”.

No. 2

Clause 4, page 3, line 25 — To insert after “charged,” —

“ or arrested under a warrant, as the case may be ”.

No. 3

Clause 4, page 5, line 6 — To delete “6(6)” and insert instead —

“ 6(9) ”.

No. 4

Clause 13, page 10, line 10 — To delete “deleting” and insert instead —

“ inserting ”.

No. 5

Clause 36, page 25, lines 21 to 24 — To delete the lines.

No. 6

Clause 41, page 27, line 10 to page 28, line 6 — To delete the lines and insert instead —

“

- (4) A magistrate to whom an application is made under section 28 for an arrest warrant for an accused for a charge of an indictable offence must not issue the warrant unless satisfied —
- (a) that the prosecution notice containing the charge complies with section 23; and
 - (b) that there are reasonable grounds to suspect the accused committed the offence; and
 - (c) that —
 - (i) there are reasonable grounds to suspect that, if a summons were issued in relation to the prosecution notice, the accused would avoid service of the summons or would not obey the summons; or
 - (ii) the issue of the warrant is justified under subsection (5).
- (4a) A magistrate to whom an application is made under section 28 for an arrest warrant for an accused for a charge of a simple offence must not issue the warrant unless satisfied —
- (a) that the prosecution notice containing the charge complies with section 23; and
 - (b) that there are reasonable grounds to suspect the accused committed the offence; and
 - (c) that —
 - (i) there are reasonable grounds to suspect that if a court hearing notice were issued in relation to the prosecution notice, the accused would avoid service of the court hearing notice; or
 - (ii) the presence of the accused when the prosecution notice is dealt with is likely to be necessary for any reason or for sentencing purposes; or
 - (iii) the issue of the warrant is justified under subsection (5).

”.

No. 7

New Clause 11, page 8, after line 19 — To insert the following new clause —

“

11. Section 184 amended

- (1) Section 184(3) is repealed and the following subsections are inserted instead —

“

- (3) For the purposes of the *Criminal Investigation Act 2005* —
- (a) the office of authorised officer is prescribed to be a public officer; and
 - (b) a holder of that office may exercise all of the powers of a public officer in that Act; and

- (c) the Commissioner is prescribed to be a senior officer in relation to the authorised officer for the purposes of sections 44, 47, 97 and 132 of that Act.
- (3a) In addition to the powers conferred by subsection (3), an authorised officer may exercise the powers of a police officer in section 40 of the *Criminal Investigation Act 2005*.
- (3b) For the purposes of the *Criminal Investigation (Identifying People) Act 2002* —
- (a) the office of authorised officer is prescribed to be a public officer; and
 - (b) a holder of that office may exercise all of the powers of a public officer in that Act; and
 - (c) the Commissioner is prescribed to be a senior officer in relation to the authorised officer.
- (3c) An authorised officer has and may perform all of the functions that a police officer has and may perform under any law of the State, other than the Acts referred to in subsections (3) to (3b).
- (2) Section 184(4) is amended by deleting “subsection (3)” and inserting instead —
- “ subsections (3) to (3c) ”.

”.

No. 8

Schedule 1, page 44, after line 1 - To insert the following new clause —

“

6. Guardianship and Administration Act 1990

s. 97(1)	<p>Delete “Advocate are — ” and insert instead —</p> <p>“ Advocate are as follows — ”.</p> <p>Delete “and” after paragraph (g).</p> <p>Delete the full stop after paragraph (h) and insert instead a semicolon.</p> <p>After paragraph (h) insert the following paragraph —</p> <p>“</p> <p style="padding-left: 40px;">(i) any other function conferred on the Public Advocate by a written law.</p> <p>”.</p>
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”.

Ordered, That consideration in detail of Legislative Council message No. 122 be made an Order of the Day for the next sitting of the Assembly.

15. Owner-Drivers (Contracts and Disputes) Bill 2006

The Minister for Planning and Infrastructure, pursuant to notice, moved,

That a bill for “An Act —

- to promote a safe and sustainable road freight transport industry by regulating the relationship between persons who enter into contracts to transport goods in heavy vehicles and person who hire them to do so; and

- to establish the Road Freight Transport Industry Tribunal and the Road Freight Transport Industry Council,

and for related purposes.” be introduced and read a first time.

Question put and passed.

The Minister for Planning and Infrastructure presented an explanatory memorandum and bill read a first time.

The Minister for Planning and Infrastructure moved, That the bill be now read a second time.

Mr T.R. Sprigg moved, That the debate be adjourned.

Question put and passed.

16. Suspension of Standing Orders – Daylight Saving Bill (No. 2) 2006

The Leader of the House, pursuant to notice, moved,

That so much of the Standing Orders be suspended as is necessary to enable the *Daylight Saving Bill (No. 2) 2006* to –

- be dealt with when Government Business has precedence;
- proceed through the second reading debate at any time after the second reading has been moved; and

proceed through all stages without delay between the stages Debate ensued.

Question put and passed.

17. Variation to the Order of Business

Ordered, That Private Members’ Business Order of the Day No. 15 be next considered.

18. Daylight Saving Bill (No. 2) 2006

The Order of the Day for the resumption of the debate upon the second reading of the bill was read.

Debate resumed.

Question put.

The Assembly divided.

Ayes (37)

Mr C.J. Barnett	Mr J.C. Kobelke	Ms J.A. Radisich
Mr D.F. Barron-Sullivan	Mr R.C. Kucera	Mr E.S. Ripper
Mr M.J. Birney	Mr F.M. Logan	Mr T.R. Sprigg
Mr J.J.M. Bowler	Ms A.J.G. MacTiernan	Mr T.G. Stephens
Mr A.J. Carpenter	Mr J.A. McGinty	Mr D.A. Templeman
Dr E. Constable	Mr M. McGowan	Ms S.E. Walker
Mr J.H.D. Day	Mr J.E. McGrath	Mr P.B. Watson
Mr J.B. D’Orazio	Ms S.M. McHale	Mr M.P. Whitely
Dr J.M. Edwards	Mr N.R. Marlborough	Dr J.M. Woollard
Mrs D.J. Guise	Mr A.P. O’Gorman	Mr B.S. Wyatt
Ms K. Hodson-Thomas	Mr P.D. Omodei	Mr S.R. Hill (<i>Teller</i>)
Mrs J. Hughes	Mr J.R. Quigley	
Mr J.N. Hyde	Ms M.M. Quirk	

Noes (14)

Mr T.R. Buswell
 Mr G.M. Castrilli
 Mr B.J. Grylls
 Dr K.D. Hames
 Mr A.D. McRae

Mr D.T. Redman
 Mrs M.H. Roberts
 Mr A.J. Simpson
 Mr G. Snook
 Dr S.C. Thomas

Mr M.W. Trenorden
 Mr T.K. Waldron
 Mr G.A. Woodhams
 Dr G.G. Jacobs (*Teller*)

Question thus passed.

Bill read a second time.

Leave was granted to proceed forthwith to the third reading.

Mr M.J. Birney moved, That the bill be read a third time.

Question put and passed.

Bill read a third time and forwarded to the Legislative Council for concurrence.

19. Curriculum Council (Fees and Charges) Bill 2006

The Order of the Day for the resumption of the debate upon the second reading of the bill was read.

Urgent Bill

The Leader of the House moved, That the *Curriculum Council (Fees and Charges) Bill 2006* be considered an urgent bill.

Question put and passed.

Debate resumed.

Question put and passed.

Bill read a second time.

Leave was granted to proceed forthwith to the third reading of the bill.

The Minister representing the Minister for Education and Training moved, That the bill be now read a third time.

Question put and passed.

Bill read a third time and forwarded to the Legislative Council for concurrence.

20. Adjournment

The Leader of the House moved, That the House do now adjourn.

Question put and passed.

The Assembly adjourned accordingly, at 11.38 p.m. until Wednesday, 1 November 2006 at 12.00 p.m.

Members present during any part of the day's proceedings - All the members except Mrs C.A. Martin and Mr M.P. Murray.

PETER J. McHUGH
 Clerk of the Legislative Assembly

HON. FRED RIEBELING
 Speaker of the Legislative Assembly